

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Rates for Interstate Inmate Calling Services)	WC Docket No. 12-375
)	

**RESPONSE OF THE
ALABAMA PUBLIC SERVICE COMMISSION**

The Alabama Public Service Commission (“APSC”) submits the following response to the Order issued by the Federal Communications Commission (“FCC”) on September 21, 2015 (“Order”).¹ The FCC directed Mr. Baker and the APSC to provide any additional information, beyond what has already been provided, regarding Mr. Baker’s violation of the terms of the Protective Order in this case. The FCC also directed the APSC to submit a description of the measures and procedures to be implemented to ensure that there will be no future violations of the Protective Order.

A. Additional Background Information

The APSC routinely receives and reviews confidential information in its normal course of business. Employees of the APSC are, accordingly, trained to ensure that all documents that are proprietary in nature are afforded appropriate protection from improper disclosure. The fact that there have been no sanctions pursued against employees of the APSC for the improper disclosure of confidential information prior to Mr. Baker’s incident would seem to indicate that the APSC’s standard training measures regarding the protection of confidential information has been effective.

¹ This response is submitted on behalf of the APSC and its employee, Mr. Darrell Baker.

All APSC employees who signed the Acknowledgements of Confidentiality (“AoC”) in this case, including Mr. Baker, had read the Protective Order and acknowledged same. The APSC, therefore, had every confidence that Mr. Baker and the other employees of the APSC who signed the AoC would follow all of the procedures set forth in the Protective Order.

Mr. Baker clearly understood that the data included in his filing of July 8, 2015, was confidential and subject to protection as he properly labeled that data as “Confidential Information Subject to Protective Order in WC Docket No. 12-375 before the Federal Communications Commission” as required by the Protective Order. Mr. Baker’s mistake, however, was presuming that, like filings which are marked confidential and submitted to the Secretary of the APSC on the APSC’s electronic filing system, information clearly marked as confidential and filed with the FCC via the ECFS system would be screened and not publicly posted. Regardless of that presumption, Mr. Baker could have avoided this unfortunate scenario altogether had he properly reviewed the terms of the Protective Order which he had previously read prior to hastily filing the document which contained the information subject to the Protective Order on the ECFS system on July 8, 2015. The Protective Order clearly establishes that “stamped confidential documents” a party seeks to file are to be submitted to the Secretary of the FCC and not filed electronically on the ECFS system. Mr. Baker learned the hard way that documents filed on the ECFS are publicly posted even with a designation of confidentiality.

Mr. Baker first became aware that he had improperly submitted confidential information in violation of the Protective Order on July 9, 2015, when he was copied on an email from counsel for Global Tel*Link Corporation (“GTL”) to FCC staff members which pointed out the breach. Accordingly, the FCC had knowledge of the breach at the same time that Mr. Baker did. While

the document containing the confidential information was quickly retracted, it was available to the public on ECFS for approximately three hours before it was removed.

After Mr. Baker reported the breach of the confidentiality agreement through his supervisory chain, an internal investigation within the APSC commenced. Although it was apparent that Mr. Baker's confidential filing did not disclose confidential data with the same granularity as that filed by the respective ICS providers, the APSC determined that there had nonetheless been a breach of the Protective Order. GTL's motion seeking sanctions against Mr. Baker and the APSC for violations of the Protective Order was filed before the APSC could notify other parties of the breach. No entity other than GTL has officially contacted the APSC regarding Mr. Baker's filing error.

B. Measures to Ensure No Future Violations

The APSC recognizes the seriousness of the filing error made in this case and has already taken steps to ensure that there will be no future violations. First, the APSC retrained Staff on the requirements of the Protective Order and the proper handling of confidential information. Certification of that training, which occurred on July 29, 2015, is attached as Exhibit A. Second, all media containing confidential information related to this docket was secured in my office and will remain there until there is a final resolution of this matter by the FCC. Third, until further notice, Mr. Baker will not submit filings in WC Docket No. 12-375. Fourth, any future filings by the APSC in this docket will be signed by an attorney.

The APSC and Mr. Baker learned late on the afternoon of September 25, 2015, that a copy of a personal email Mr. Baker sent to Ms. Lynne Engledow of the FCC staff on September 22, 2015, was apparently submitted to the Secretary of the FCC after someone other than Mr. Baker hand wrote WC Docket 12-375 on the document. The copy of Mr. Baker's email was also stamped

as “accepted/filed” on September 25, 2015, by the Secretary of the FCC. The copy of the personal email from Mr. Baker also appears to have been entered into the ECFS by someone at the FCC who designated that the APSC had made the “filing.”

Upon investigation, the APSC established that Mr. Baker had no intention or expectation that the email he submitted to Ms. Engledow in response to an email from her would be considered an official filing with the FCC on behalf of the APSC or himself. The treatment of Mr. Baker’s personal email is from all indications completely inconsistent with the prior experience of the APSC and Mr. Baker in that prior, similar personal emails from Mr. Baker have not been treated as filings, much less entered into the ECFS system over 3 business days later as submissions by the APSC.

The more important consideration is that Mr. Baker has, as he was instructed, refrained from initiating any contact or making any filings with the FCC regarding the merits of the regulatory issues under consideration in WC Docket No. 12-375. His personal email which was posted on the ECFS as a filing on behalf of the APSC in that Docket related exclusively to his failure to adhere to the requirements of the Protective Order entered in said Docket. While the issues involved with Mr. Baker’s failure to adhere to the requirements of that Protective Order are of the utmost importance, they are somewhat ancillary to the regulatory issues under consideration in WC Docket 12-375.

Further, the September 21, 2015, Order of the FCC directs Mr. Baker *and* the APSC to respond to the matters set forth in said Order. Even though Mr. Baker did not intend his personal email of September 21, 2015, to be an officially filed response to that Order, some confusion on his part regarding his responsibility would have been understandable.

The APSC again gives its assurances that all relevant APSC Staff members have been instructed on the above remedial measures. Their signed acknowledgments of these measures are attached as Exhibit B.

The APSC regrets this mistake and will take all necessary steps to prevent future violations of the Protective Order. In fact, this incident has prompted the APSC to implement a Protective Order Compliance Protocol which will be implemented in this and all future instances involving information submitted to the APSC and its staff subject to a protective order. This newly implemented procedure requires preapproval from the Executive Director to submit any filing containing information that is the subject of a protective order, the submission of a draft document which must be approved by the APSC Executive Director, and the signature of the Executive Director or another APSC attorney on the document in question.

Respectfully submitted,

/s/ John A. Garner

John A. Garner
Executive Director
Alabama Public Service Commission
100 North Union Street, RSA Union
Montgomery, Alabama 361004

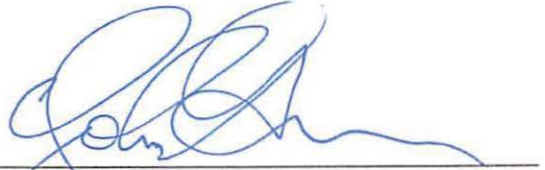
September 24, 2015

Exhibit A

Certification of Retraining Regarding Protective Order

Re: *WC Docket No. 12-375*

As the Chief Administrative Law Judge and Executive Director of the Alabama Public Service Commission ("APSC"), I hereby certify that on July 29, 2015, the APSC employees reflected on the attached list underwent retraining on all provisions of the Protective Order entered in the above styled Docket.



John A. Garner
Chief Administrative Law Judge and
Executive Director

Alabama Public Service Commission
Remedial Training on Protective Order in WC Docket No. 12-375

Sign-in Sheet



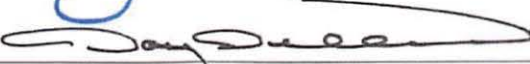
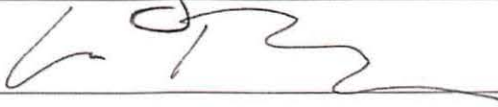
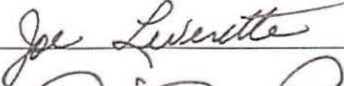



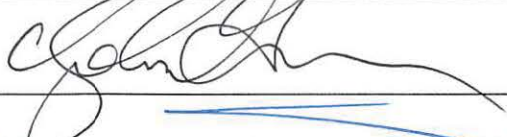

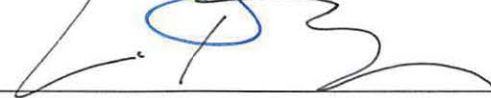


Name	Signature
Darrell Baker	
John Garner	
Doug Dillard	
Luke Bentley	
Joe Leverette	
David Peeler	
Earl McArthur	

Exhibit B

Alabama Public Service Commission
Acknowledgement of Review of Measures and Procedures

The Alabama Public Service Commission ("APSC") has taken the following steps to ensure that there will be no future violations of the Protective Order in WC Docket No. 12-375 pending before the Federal Communications Commission ("FCC"). First, the APSC retrained Staff on the requirements of the Protective Order and the proper handling of confidential information. Second, all media containing confidential information related to this docket was secured in the office of the APSC Executive Director and will remain there until there is a final resolution of this matter by the FCC. Third, until further notice, Mr. Baker will not submit filings in WC Docket No. 12-375. Fourth, any future filings by the APSC in this docket will be reviewed and signed by an attorney.

I acknowledge that I have reviewed and understand the above measures and procedures related to the handling of confidential information in WC Docket No. 12-375.

Name	Signature
Darrell Baker	
John Garner	
Doug Dillard	
Luke Bentley	
Joe Leverette	
David Peeler	
Earl McArthur	